



**MARKETING & REGULATORY PROGRAM
BUSINESS SERVICES
OFFICE OF HUMAN RESOURCES**

**BARGAINING UNIT STATUS (BUS)
CODES**

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BARGAINING UNIT STATUS (BUS) CODES A GUIDE

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INTRODUCTION

Upon reviewing the Bargaining Unit Status (BUS) throughout the serviced areas, incorrect data that adversely impacts the capability for fast and accurate reporting of bargaining unit (BU) information was found. As a result, the Labor Relations Division of Marketing and Regulatory Programs Business Services (MRBPS) prepared this modified version of the Department of the Navy's BUS Code Guide to use when making BUS code changes. The Guide explains how to identify appropriate BUS codes and outlines the different actions that cause BUS codes to change. Some of the actions may not be applicable to the experience within the United States Department of Agriculture (USDA); however, the information is included in order to provide a comprehensive resource to management officials, human resource specialists and processing associates.

This is not a comprehensive guide on related subjects that affect the assignment of BUS codes. The Federal Labor Relations Authority (FLRA) website is an excellent resource for more comprehensive information. See www.flra.gov/gc/manuals/rp/gc-mnl-rclg-toc.html

The objective of this Guide is to illustrate some of the many reasons why timely actions resulting in updated BUS codes will avoid costly future labor relations (LR) disputes. Incorporation of these concepts will ensure that BUS codes are properly recorded and will improve the speed and accuracy of reports required by Headquarters and the Office of Personnel Management (OPM). Some of the illustrations are from experiences of other Federal agencies. They are included for information purposes in order to provide more in-depth insight into the subject.

Keep in mind that BUS codes are not just numbers, but represent bargaining rights under federal law. Ensuring prudent decisions about BUS codes is an important responsibility of the Human Resources Division (HRD) of MRPBS on behalf of employees as well as USDA management. Union dues that are deducted in error are subject to being reimbursed by the USDA; however, the union may or may not have to reimburse the Agency. The Labor Management Relations Update advisory located in Attachment 1 provides more in-depth discussion on the subject of union dues allotments and agency liability.

BACKGROUND

What is a BUS Code?

When a BU is certified, or changes affiliation from one union to another (i.e. Fraternal Order of Police to International Brotherhood of Police), the USDA Office of Human Resources Management (OHRM) Labor Relations Program Manager obtains a code from OPM that identifies the new unit. OPM refers to the number as the Office of Labor-Management Relations (OLMR) number. OPM uses that number to report on recognized units in the Federal sector. Other Federal agencies and labor unions also use the number for accounting and reporting purposes.

What do BUS codes represent?

The OLMR number is a six-digit number. The first two numbers identify the Agency in which the BU is certified. The identifier for USDA is 02. The remaining four-digit number is the number most commonly known as the BUS code. BUS codes are grouped by Department and in alphabetical order by Agency.

Two BUS codes that are universal throughout the Federal sector are 7777 and 8888. A 7777 code is used for positions that are eligible to be represented by a labor union; however, no certified unit currently exists for those employees. BUS code 7777 is also used in the case of certain temporary employees, when the BU does not include those temporary employees.

Employees with the 7777 code can be represented by a union through the election process (i.e. they are not statutorily prohibited from representation). If the majority of the employees voted for union representation, the BUS code would be changed. For example, since no union represented the non-professional AD employees of California Wildlife Services, each employee had a BUS code of 7777. In April 2002, the Western Region Wildlife Specialists Association (WRWSA) petitioned the FLRA for an election to determine whether the non-professional AD employees in that particular locale wanted to be represented by WRWSA. The majority of employees voted for representation, and now all non-professional, permanent AD employees and term employees with an expectation of continued employment of the California Wildlife Services, APHIS, USDA in the State of California have a BUS code of 020445.

Federal statutes provide for excluding certain employees from eligibility to be represented as part of a collective BU. BUS code 8888 represents this designation that is commonly used to indicate the exclusion of supervisors, management officials and personnelists to name a few.

Where are BUS codes found?

Employees can find their BUS code status by reviewing block 37 on the latest Notification of Personnel Action (NPA); i.e., SF-50B.

BUS CODE DETERMINATIONS

Who is Included / Excluded in the BU Certification?

The Federal Service Labor Management Relations Statute (the Statute) assigns the FLRA the responsibility for making appropriate unit and individual employee BU status determinations. The FLRA issues an original Certification of Representative¹ following a union petition and election process. During that process the activity and the union attempt to agree upon a unit description that spells out who is "included" and who is "excluded" from the BU. The unit description is fixed once a unit determination is made, an election held, and the unit is certified. There would have to be a substantial change in the mission of an organization or in the duties and responsibilities of a position in order to petition to have the included or excluded descriptions changed (unit clarification).

Employees Who May Be In Included Positions

Professional Employees

Section 7103(a)(15) of the Statute describes professional employees. They perform work that requires knowledge gained through advanced or specialized intellectual instruction, such as the field of science, and requires the exercise of independent judgment or discretion. The FLRA has noted that a college degree is not always required for an employee to be a "professional" under the Statute; however, a professional's work is predominately intellectual and varied in character as distinguished from routine, mental, manual, mechanical, or physical. Additionally, the work output and the accomplished results cannot be standardized.

Example:

A professional accountant qualified for a position through a combination of college level accounting credits and professional work experience including board certification. Although many accountants might have accounting degrees, the qualifications standard also recognizes a combination of experience and education including required accounting coursework. This individual would be included or excluded dependent on where professionals are found in the activity's unit description.

¹ See Attachment 2, Sample of "Certification of Representative."

It is important to exclude professionals in a unit description even when there are no professional employees at the time, since positions would later be considered "included" if not specifically "excluded." If professionals were hired later they should be automatically included unless the BU certificate was successfully amended.

Professionals might choose to be represented by a different union than those non-professional employees in their activity. Professionals might also choose the same union as the non-professionals but desire to be part of a separate BU (different/unique BUS code number, 02xxxx), or to be part of the same BU as the non-professionals (sharing same BUS code as non-professionals). They might choose not be represented at all (BUS code 7777).

For example, this activity's non-professional unit description "excludes" professionals:

Excluded: All police and guards of the Security Division of the Public Safety Department, all firefighters and telecommunications equipment operators of the Fire Protection Division of the Public Safety Department, all supervisors, all management officials, professional employees, and employees described in 5 U.S.C. §7112(b)(2), (3), (4), (6) and (7).

However, the activity's professionals have voted to be represented by a different unit and are "included" in their own BU:

Included: All appropriate-funded professional employees employed at Naval Station Newport, Newport, Rhode Island.

An example of a combined BU might look like this one:

Included: All professional and non-professional employees employed by the Supervisor of Shipbuilding Conversion and Repair, U.S. Department of the Navy, Bath, Maine.

The following is an example of BUS code options when assigning a BUS code to professional employees. The correct code is dependent upon whether the professional employees at that activity have voted in an election in favor of being represented separately; being represented in a combined unit (professionals and non-professionals), or not being represented at all. Professionals are also subject to statutory exclusion if they meet the appropriate criteria.

020260	<i>American Federation of Government Employees (AFGE), (Local 3299)</i>	<i>All professional employees</i>
020430	<i>National Association of Agriculture Employees (NAAE), National Exclusive</i>	<i>All professional and non-professional employees (combined)</i>
7777	<i>Eligible/Unrepresented</i>	<i>Unrepresented professionals</i>
8888	<i>Ineligible</i>	<i>Professionals meeting criteria for statutory exclusions</i>

Non-Professional Employees

Non-professional employees occupy all positions other than professional positions within the broader category of employees described, such as "all General Schedule" or "all Wage Grade." An exception is all of those positions that are specifically excluded in the "excluded" part of the unit description.

Example:

Included: All non-professional employees employed by U. S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Puerto Rico and U.S. Virgin Islands.

Excluded: All professional employees, temporary employees, management officials, supervisors, and employees described in 5 USC 7112(b)(2), (3), (4), (6) and (7).

If all of the "included" employees of an activity's various BUs are represented by one or more unions, then all of those "included" employees must be coded by using one or more unique (02xxxx) BUS codes. So, if there is more than one union at a location, then they each represent different BUs. Each BU has its own "certification of representative," causing each BU to have a separate and distinct BUS code. For example, certain employees located in Puerto Rico and the Virgin Islands are represented by the following labor organizations and should be coded appropriately:

*020430 - National Association of Agriculture Employees (NAAE)
All professional and non-professional employees employed by
USDA, APHIS, PPQ*

*020541 - American Federation of Government Employees (AFGE), Local 2614
All non-professional employees employed by USDA, APHIS, VS,
Puerto Rico and U.S. Virgin Islands*

Temporary / Intermittent / When Actually Employed (WAE) Employees

Non-permanent employees are not statutorily excluded from eligibility for representation. Although FLRA unit determinations are made on a case-by-case basis, there is some case law to provide us with guidance. The key factor is whether or not the temporary employees in question have enough in common (share a "community of interest") with the other employees in the BU. While temporary employees may have similar day-to-day working conditions (hours/tours of duty), they might not share the same appointment types, benefits or work schedules in common with permanent employees.

Let's examine other differences in working conditions or "community of interest" factors that might differentiate temporary employees from permanent employees. Considered together, these differences will be indicators as to whether to include or exclude such employees from the BU. Temporary employees may be hired for specific short-term needs. They may not get paid from comparable schedules, or receive premiums or differentials, and may not be receiving benefits such as health insurance, life insurance or annual leave. This may be different from permanent employees in the BU. If the temporary employees in question were hired for specific periods of time (particularly when 6-9 months or less) and have "no reasonable expectation of continued employment beyond the original appointment," excluding those from the unit may be an appropriate decision. Such exclusion would be found in the unit description of the FLRA unit certification for the activity in question if it was agreed at the time the original FLRA Certification of Representative was issued. If inclusion would present problems for the activity due to temporary employees' brief tenure (or because of other differences) and case law is indicative that the FLRA would decide in favor of such an exclusion, then proposing it during an original election/certification process is the correct method. It should then appear under the unit description in the activity's collective bargaining agreement(s) (CBA), and it should read exactly as described by FLRA in the original Certification of Representative. Neither management nor the union have the authority to change the definition of the bargaining unit. FLRA retains that authority and if a change is required, a petition must be filed with FLRA.

The following is an example of a unit description that excludes temporary employees:

Excluded: All professional employees, temporary employees, management officials, supervisors and employees described in 5 USC 7112(b) (2), (3), (4), (6) and (7).

The options for labor-management treatment of temporary employment are similar for intermittent and WAE employees alike. In the case of a WAE, generally a permanent appointment, the answer to the question of reasonable expectation for continued employment might be positive. However, there are other considerations such as work schedules and other conditions of employment that must be viewed in terms of a shared community of interest with the regular full-time permanent employees.

Intermittent employees' work schedules may vary from week to week according to budgetary and workload considerations differentiating them from regular employees. If intermittents have permanent appointments (appointments can be permanent or or temporary), they will be considered to have a "reasonable expectation of continued employment." This is the major factor in making unit determinations that "include" temporaries in the BU. However, intermittents might have other factors such as conditions of employment that are very different from those of full-time permanent employees and as a result not share a "community of interest" with other BU employees.

As with temporary employees, intermittent employees are not automatically (statutorily) excluded from the BU. However, it is imperative that the included or excluded descriptions in the unit certification and the CBA clearly categorize intermittents, temporary employees, or WAEs. In the absence of such unit description exclusions, the FLRA will decide on a case-by-case basis if they are to be included in the BU. If the parties are in disagreement over excluding certain types of employees, they might petition for unit clarification with the FLRA. These matters are complex and the labor relations staff will be working these issues. However, management will have a major role to play inasmuch as they will have to provide the information required by the FLRA in order for them to make a decision.

Discussions concerning temporary employees do not include assignments like temporary promotions or temporary reassignments (having "not to exceed [NTE]" dates) when filled with permanent status employees. Such positions and their incumbents are treated in accordance with the appropriate coding for the positions to which they are assigned. Since they are permanent employees and otherwise eligible for the BU, they are coded accordingly unless their temporary assignment is in an excluded position. An example of this is a temporary promotion from the BU into a supervisory position.

Use of a 7777 BUS Code

As we have seen, the 7777 BUS code denotes that the employee holds a position eligible for representation, although no union currently represents that classification of employees at the activity. This might mean professionals or non-professionals or both. BUS codes refer to the position and not the employee. Whether or not an employee wants to be a union member and pay dues is not a factor in determining BUS codes. What is pertinent is whether a union has been certified as the exclusive representative for a specified group of positions at the activity. When a union has been certified, those employees are no longer coded as 7777.

Employees Ineligible for Representation (8888)

While the Statute provides that employees may form, join, or assist any labor organization, there are some Federal employees that cannot be represented by a union. That exclusion is noted on the NPA as BUS code 8888. In order to be designated as 8888, the position needs to meet at least one of the following criteria:

1. Supervisor - The Statute defines supervisor as "an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action." There is no requirement that the supervisor must perform all of these duties or supervise a certain number of employees, but the supervisor must consistently exercise independent judgment. An individual who supervises only military members is not a supervisor within the meaning of the Statute. Individuals, who supervise for a portion of the year, or on a temporary basis, are excluded from the unit during the period they supervise employees.

A supervisor should not be confused with a team leader for the purposes of exclusion. Team leaders are not always supervisors. They are not supervisors if their primary duty is to give technical advice to others and their responsibilities are routine in nature. If the team leader does not consistently exercise independent judgment, but rather carries out the mission and work assignments designated by management, then the position is included in the BU.

Examples:

The Authority found that a GS-06 Hospital Facilities Work Coordinator was excluded from the unit as a supervisor within the meaning of the Statute. He assigned and directed the work of a maintenance employee and effectively recommended an award for that employee. These duties were performed with the consistent exercise of independent judgment.

A Senior Technical Advisor was not excluded from the BU as a supervisor. When acting on behalf of the Associate Director, a second level supervisor, the employee did not exercise supervisory authority. The employee did not directly assign work to employees, and his assigning incoming correspondence constituted the performance of a routine function. The function did not require the exercise of independent judgment. The employee's technical review of the work of other employees did not require the consistent exercise of independent judgment.

2. Management Official - An individual that exercises independent judgment in formulating and effectuating agency (civilian) policies, or participates in the formulation of that policy. A management official creates, establishes, or prescribes general principles, plans courses of action, decides upon plans or courses of action, and obtains a result by the adoption of plans or courses of action.

Examples:

An Assistant Research Director was a management official since he made independent decisions, planned research projects, and monitored projects by evaluating reports. His recommendations and findings were accepted as authoritative and implemented without any meaningful review.

An Automated Data Processing security specialist was excluded from the BU as a management official because he had independently created the agency's computer security programs and retained the responsibility for shutting down all security operations in the event of a security breach.

Individuals who recommend new regulations, review legislative proposals, and analyze the impact of economic data were not management officials.

A General Engineer was held not to be a management official because, as a professional, he assisted in implementing rather than shaping the agency's policies.

A Safety Officer and a Fire Protection Inspector were not management officials because they did not formulate policy and had no authority to implement their suggestions.

3. Confidential Employee - An employee who assists and acts in a confidential capacity to an official who formulates or effectuates management policies in the field of labor relations and who has regular access to confidential labor relations material. This employee has access to management strategies for dealing with union matters such as negotiations or grievances. Employees that attend regular management meetings where labor-management relations issues are discussed are excluded as confidential.

Examples:

The FLRA found that secretaries that attended regular management staff meetings of the "principle decision-making body and policy-making management team" relative to activity policies wherein attendees' views were solicited on how such matters would be handled in labor-management negotiations, were determined to be confidential employees.

Support staff that have access to grievances and grievance decisions before they are presented to the union are confidential employees.

Other individuals (such as attorneys, paralegals, or specialists) who are privy to LR policies as they are developed, and whose inclusion in a BU would create a conflict of interest between the employee's work duties and unit membership, are excluded from the BU as confidential. The amount of time that an individual devotes to LR matters is not a controlling factor in determining confidential status.

4. Personnelists - An employee whose character and extent of involvement in personnel work is more than clerical in nature and the duties of the position are performed in a non-routine manner and require the exercise of independent judgment and discretion. Employees that recruit or make recommendations to management on personnel actions are excluded as personnelists. Also, individuals whose duties create a conflict of interest, such as certain investigators performing studies that change organizational structures or staffing levels, are excluded as personnelists because the employee's job duties may require the individual to act in a manner adverse to BU interests.

Examples:

Management analysts that performed studies that determined the appropriateness of the activity's organizational structure, staffing, method of operations, and capital investments were excluded from the BU as personnelists.

Employees that provided employment information and assisted applicants in filling out personnel forms are not personnelists because they performed their duties within prescribed guidelines and regulations which required little, if any, independent discretion or judgment.

Employees who process military personnel information are not engaged in federal personnel work and are included in the BU.

Labor and employee relations specialists are excluded from the BU as personnelists (and also as administrators of the Statute as described below).

5. National Security Personnel - An employee engaged in intelligence, counterintelligence or national security work. This includes individuals involved in the design, analysis, or monitoring of security systems or classified information that directly affects national security. National security work does not include mere access to or use of sensitive information and material. The material must directly affect national security.

Examples:

Personnel security specialists that grant access authorizations or clearances through interviewing, examination, and evaluation are engaged in national security work.

A classified material systems custodian that maintained a classified material system was engaged in work that directly affected national security. The custodian reviewed and logged all classified material, and handled highly classified communications.

Security specialists responsible for designing and auditing security systems and procedures are engaged in national security work.

A mail clerk that receives and distributes classified material in accordance with procedures is not engaged in national security work.

Secretaries that take dictation, typing, and filing of correspondence on security issues are not engaged in security work that directly affects national security.

6. Investigators/Auditors - Individuals engaged in investigation or audit functions wherein the nature of the investigation/audit might uncover fraud, waste, and abuse. An individual that audits agency programs or contracts that may uncover an employees' failure to comply with programs is excluded. The investigators and/or auditors do not have to be directly investigating unit employees for the exclusion to be considered. Whether or not the investigators/auditors find violations of agency policies is not dispositive.

Examples:

Auditors and investigators in the Office of the Inspector General whose functions could uncover employee fraud, misuse of funds, or malfeasance are excluded from the BU because the work affects the internal security of the agency.

Any individual who audits and/or investigates particular types of employees to ensure that the employees are discharging their duties with honesty and integrity is excluded from the BU.

7. Administering a Labor Relations Statute - An employee who is engaged in administering any provision of law relating to labor management relations is ineligible to be included in the same BU with other activity employees. Although the Statute does not prohibit these employees from being represented by a union, they cannot belong to the same unit as other activity employees. This rule is necessary in order to prevent the appearance of a conflict of interest between the labor law administration and its application to other employees in the same union.

Examples:

Labor and employee relations specialist are excluded from the BU as administrators of the Statute (and also as personnelists).

General attorneys that provide advice on negotiations, grievance handling, and contract interpretation are excluded from the BU as administrators of the Statute.

Secretaries in the LR office are not excluded from the BU as administrators of the Statute; however, they are excluded as confidential employees because the nature and duties of their position make them privy to confidential LR materials.

Union officials, although they administer provisions of the Statute, are not excluded from the BU. The duties associated with administering the Statute do not create a conflict of interest between their administration and the interest of the unit employees.

Determinations Based Upon Current Duties and Responsibilities

BU exclusions can be subject to FLRA scrutiny whenever representational matters come before them. Therefore, when making assessments relative to excluding positions from the BU, it is important to recognize the basis on which the FLRA makes decisions on unit makeup. Case law has demonstrated that the FLRA bases unit eligibility determinations on the employee's actual duties at the time of the hearing. What an employee is actually doing on a current basis carries more weight than written position descriptions (PDs) or documentation concerning duties that may be assigned or undertaken in the future. When individual positions are determined to be excluded and coded as 8888, then the current duties and responsibilities of the incumbent(s) should meet one or more categories of criteria above. Since the statutory descriptions of these exclusions are subject to being debated, it is wise to rely on technical advice from the LR Specialist based on recent case law.

As stated, FLRA unit eligibility decisions will normally emphasize the employee's actual duties currently assigned at the time of a hearing. Nonetheless, there are some situations where employees are not yet performing the duties that primarily warrant exclusion and the exclusion of that incumbent is still appropriate. In such cases, there are certain factors to consider, including whether an employee has recently encumbered the position. When reviewing the duties of recent incumbents, the FLRA will consider their duties to have been actually assigned where (1) the employee has been informed that they will be performing the duties in question; (2) the nature of the job clearly requires those duties; and (3) the employee is not performing them at present solely because of lack of experience, which is expected to be overcome. When these factors are clearly met, there can be greater confidence that unit exclusion decisions are defensible. However, the FLRA will also consider that those duties simply have not been assigned where: (1) the assignment is speculative, where the nature (of duties and responsibilities) may change or where the nature doesn't clearly require those duties; or (2) where it is not clear that duties were assigned or that the employee was informed of that assignment.

HRD RESPONSIBILITIES

Whenever an employee is given an assignment to a new or different position (different PD and Position Number), then processing the resultant personnel action necessitates a new determination of the appropriate BUS code. The Human Resources Specialist (Classification) has the responsibility to make that determination in order to process actions such as an appointment, promotion, reassignment or any other action that moves an employee to a different position.

For instance, an activity hires an employee, new to the agency, and assigns him to a specific position. The position might have a pre-existing PD or require the creation and approval of a new PD if it is entirely new. Whether a new or pre-existing PD, the PD might apply to more than one incumbent or this might be a one-of-a-kind employee.

How do these variables impact BUS code determinations? They provide a source of information as to duties, responsibilities and interactions within an organization. The existence of prior incumbents provides more evidence for managers and personnelists (also FLRA) as to how these positions compare to the benchmarks and statutory criteria for one category or another of BU inclusions or exclusions.

The sections that follow provide some examples of opportunities to review BUS codes and make new BUS code determinations. Certainly these are very important opportunities to make correct determinations. However, there are an enormous number of erroneous BUS code assignments, ranging from simple coding errors to BUS codes that should have been eliminated. It is the HRDs responsibility to ensure the accuracy of BUS code determinations. Accordingly, the HRD must establish methods of analysis, detection, and correction to ensure that there is a reasonable level of accuracy when third party reviews occur unexpectedly. The HR Classification staff needs to utilize the resources available to produce spreadsheet records of included and excluded positions to assist in reviewing the accuracy of BUS code determinations for the serviced population. This should not be a one-time review, but must be performed periodically and consistently. It will certainly pay dividends to everyone involved the first time a marathon effort under short time constraints is avoided. Customers neither appreciate, nor understand analyses done under panicked conditions. They also do not appreciate receiving grievances, unfair labor practice (ULP) charges or having a disgruntled employee working for them because of errors that could have been located and corrected.

New Positions

Initially, the HR Specialist (Classification), upon review of the duties and responsibilities assigned, determines whether or not a new position belongs to the BU. The correct determination is not always the obvious one.

An example would be secretaries that in most cases are eligible for status in a non-professional unit because of the clerical nature of their duties and responsibilities. However, they will be excluded from eligibility as confidential employees if their duties include regular access to confidential LR material.

The HR Specialist (Classification) reviews the BUs for the activity and assigns the position to the unique BUS code (02xxxx) for the appropriate unit at the activity. If the position is included in a BU, a determination must be made as to the specific BU in which it belongs. There may be more than one union representing different groups of employees at an activity. Most of the time unit placement is unmistakable, but where there is any doubt, the HR Specialist (Classification) must ensure that the employee is assigned the correct BUS code.

The BUS code for an eligible position that is unrepresented is 7777. The BUS code for an excluded position is 8888. In the example, if that "included" secretary works for the State Port Director (or another management official involved in LR) then the HR Specialist (Classification) should consult with the LR Specialist for a determination of whether or not that secretary performs duties that would exclude the position from the BU as a confidential employee. In such a case, the HR Specialist (Classification) would designate the position as 8888 since the position would be appropriately excluded.

Existing Positions

As with new positions, the HR Specialist (Classification) conducts a similar analysis. The HR Specialist (Classification) first looks at the organizational placement, the duties and responsibilities of the incumbent position, and the corresponding BUS code. This BUS code assignment should be reviewed and its correctness verified.

A previously existing position usually has more information available about the duties and responsibilities as performed by past and present incumbents. The first question to answer is whether this existing PD continues to serve as an accurate document and whether the new incumbent will actually perform the full range of duties as other incumbents.

Mistakes often remain unnoticed by others and can go uncorrected for long periods. That is the reason that accurate determinations and verifications are vitally important at opportunities such as changes in position (reassignment, promotion, etc.). When potentially erroneous BUS codes are encountered, follow up is critical, although it is equally important to consult with all appropriate personnel, including the LR staff, before making any fast or isolated decisions.

Incorrect data in the system will cause repercussions and could result in a ULP or representational petition being filed with the FLRA. Incorrect data also has an immediate negative impact on employees, the accuracy of records, and on reports that rely on such data. For example, employees that are ineligible for dues withholdings have lost monies that were withheld; employees have actively participated in union activities when ineligible to do so; inaccurate data has also been reported to a variety of sources that later caused embarrassment and marathon correction projects. BUS code data must be correct because it is relied upon in meeting USDA reporting requirements.

New Hires, Reassignments, Promotions

As noted above, a new determination of the appropriate BU status and resultant BUS code is necessary whenever an employee is given a new assignment. This process will be very similar for each of several personnel actions. One difference discussed above is whether the PD previously existed and whether it is being newly classified. Beyond that, the process is the same whether the new assignment is the result of a new hire (an individual employee who is new to the agency or to the government), a reassignment (lateral movement at the same pay grade) or a promotion (increase in pay grade or promotion potential). The essential thing is that the employee is being given new duties and responsibilities.

Consider that recruitment for a position requiring specialized scientific training culminates in a new hire for a professional position. If other professionals share a community of interest and all are presently represented, then the same unique BUS code would be appropriate for this new professional (02xxxx) and not the 7777 designation. This is a frequent coding error. The result is that an individual may likely be told that they are ineligible for union representation. The union may have an issue since this employee would be excluded from having union dues deducted from their pay.

If other professionals are unrepresented, then the assignment of a 7777 BUS code would be appropriate. However, if the professional status of the position were missed and the individual was erroneously given the BUS code for the BU representing the non-professionals, there may be a problem with lost union dues deductions. Moreover, some employees are understandably upset when given erroneous information about their rights to be represented. Now, if this newly hired professional is also a supervisor or compares solidly against other benchmarks for excluding ineligible employees such as a management official, then this professional would be coded 8888.

New assignments of employees to analyst type positions at the GS-12, GS-13, GS-14 level can be a source of incorrect BUS codes. For example, a newly assigned analyst is put into the same grade and series with a different PD from other excluded (8888) analysts, while lacking the controlling duties to put them on a par with the excluded positions. This position was coded 8888 in error, rather than assigning the unique BU code (02xxxx) if that unit is represented or 7777 if unrepresented.

In summary, BUS code determinations have a lot riding on their absolute accuracy. Since there are serious decisions, they should be given adequate research and should always involve the appropriate experts in classification, staffing and LR, as necessary.

New Supervisor Selections

In cases where an employee is reassigned or promoted to a supervisory position, the BUS code must be changed from the 02xxxx number to 8888. In many cases, this change is overlooked and supervisors carry the BUS code as if eligible for BU representation. The HRD Processing Associate must ensure that this BUS code change is processed at the time of a supervisor's first assignment and verified on any subsequent Request for Personnel Actions (RPAs) processed.

Assignment to Different Position or Activity

When an employee accepts a different position with the same activity, but is included in a different BU, then the BUS code for that employee must be changed to reflect the new unit. When an employee accepts a position at the same general location, but with a different activity, the employee's BUS code must be changed to the BUS code representing the appropriate BU at the new activity.

Example:

The Animal and Plant Health Inspection Service, Plant Protection and Quarantine (PPQ) has a BU of professional PPQ officers and non-professional employees, with certain exclusions, represented by the National Association of Agriculture Employees (NAAE) and the BUS code is 020430. Employee A works as an administrative assistant and Box 37 of their SF-50B indicates code 020437 showing that Employee A's position is included in the National Association of Plant Protection and Quarantine Office Support Employees (NAPPQOSE). After completing the required college subjects, Employee A accepts a position as a Plant Protection Technician. NAAE currently represents these particular employees; therefore, Employee A's BUS code must be changed from 020437 to 020430.

The HRD Processing Associate must ensure that this BUS code change is processed at the time of the change in assignment.

Improper Codes - Quality Reviews and Correction

Even though BU status determinations were originally accurate, over time changes in duties and responsibilities may result from the different skills of successive incumbents. The duties and responsibilities sometimes evolve as the result of organizational or mission changes. When the controlling duties and responsibilities change significantly, it may warrant a different BUS code determination.

On example involving a confidential employee is an assistant to a manager who has integral involvement with LR responsibilities, (8888). That assistant now works for a different person who doesn't have LR responsibilities and must be coded with the BU designation (02xxxx).

Another example involving a confidential employee is one who holds a position similar to others in the BU and coded with the BU designation (02xxxx) rather than 8888, which would indicate an excluded confidential employee.

Other mistakes are sometimes the result of very simple errors that can go undetected for long periods.

One example is an unrepresented professional (7777) erroneously coded as 8888. Another example is an eligible position not represented, that was originally coded 7777 and inadvertently not changed after an election provided representation to that employee and should have resulted in a new (unique) BUS code (02xxxx).

Many opportunities occur to perform quality reviews of the accuracy of BUS code determinations. The HR Specialist (Classification) must verify the accuracy of codes each time an RPA for a change of assignments is generated. Although some reviews are more complex than others, discovery and correction should be considered a vital preemptive effort. It is of critical importance that complete and comprehensive reviews be performed on a periodic basis.

HR Specialists (Classification) commonly use computer runs that produce included and excluded groupings. These runs should be reviewed periodically and consistently to verify the accuracy of BUS codes. Some examples of the more obvious mistakes that such reviews might uncover include: BUS codes that are no longer active and should have certifications revoked; obvious positions that don't appear to fit the excluded criteria and supervisory positions that are coded as included in the BU. If one of these periodic reviews has not been done recently, then it must be done in advance of any representational proceedings, since the FLRA imposes time constraints on such proceedings. When a FLRA representational petition is initially filed, the LR staff will request that a BUS code verification review be completed in order to correctly present them to the FLRA as either "included" or "excluded" from the BU in question. This is the least favorable opportunity to make BUS code changes or corrections. Doing so in the middle of the petition process can have negative consequences. Management might have to reverse a statement or position that is crucial to its case or its credibility before the union, the FLRA or both.

Here is one other thought regarding BU status determinations. Once they are made, the BUS codes are assigned and employees are ultimately informed of the determination. This incumbent employee might not agree and could contest the decision. When considering all the facts in making BU status determinations, you will need to consult with the LR Specialist, who can provide advice based on FLRA case law, since FLRA ultimately decides these matters.

Action by Processing Associate

Once a determination is made that a BUS code has changed due to a new assignment or to make corrections as discussed, the HR Specialist (Classification) has the responsibility to initiate a personnel action. For example, if an unrepresented unit of eligible employees (7777) voted in an election to be represented, then the BUS code assigned to this unit by OPM would then be assigned to each member of the unit by providing the information to the appropriate Processing Associate.

In this case a nature of action code "800 - Change in Data Element" would be used. The BUS code determination decision should be explained and the old and new BUS code information provided when processing the RPA. Another example is a case where an individual is reassigned into or out of an ineligible (8888) position and the BUS code was not changed as it should have been.

An important step in ensuring that the BUS codes assigned on RPAs are proper is to know the unit definitions for the individual units and the corresponding BUS codes. This information is readily available from the LR office. The LR Specialist should be able to give the HR Specialist (Classification) the names of each union, the BUS code for that union, a description of the BU, and what employees and/or positions are included in that unit.

Also, OPM publishes a document called Union Recognition in the Federal Government that provides information on union representation in the federal government by agency and state. This document also indicates the BUS code for each federal union. The USDA LR website, [www.usda.gov/da/employ/USDA%20RECOGNITION AGREEMENTS%20BY%20MAY%202014%20A.htm](http://www.usda.gov/da/employ/USDA%20RECOGNITION%20AGREEMENTS%20BY%20MAY%202014%20A.htm), contains information on union representation in USDA. The HR Specialist (Classification) should have the list of unions and BUS codes at the workstation for easy reference.

ACTIONS THAT REQUIRE PETITIONS TO CHANGE BUS CODES

During normal operations, events occur that may impact the current FLRA unit recognition and the labor-management relationship. When such events occur, they will require amendments to existing certifications through petitions filed by the LR staff. In all cases, management should promptly notify the LR staff of any changes impacting the BUS code determinations of its employees. This will ensure that the LR staff is prepared for union-filed petitions or those necessarily filed on behalf of management. When the outcome of the FLRA proceeding is certified, those amended certifications are recognized and recorded by OPM. The final step is to process personnel actions that record those changes in the personnel database for each of the affected employees. Now, let's look at the different events that will cause such changes to occur.

Elections

If a union wants to represent a specific group of employees, the union can file a petition with the FLRA for an election. These employees can be grouped on a department-wide basis, on an occupational basis, on an organizational basis, or other basis determined appropriate for collective bargaining purposes by the FLRA. For instance, a group of professionals working for the same program could be an appropriate group. Another could be occupational groups or technical and administrative employees. If the FLRA orders an election, that group of employees will vote on whether or not they want union representation. If the majority of votes are for representation, then those employees will become members of a represented BU. All members of that BU have exclusive representation by the certified union regardless of whether or not they are dues paying members of the union.

When a union serves a copy of an election petition, a copy should immediately be faxed to the LR staff. The assigned LR Specialist will contact management for information in order to respond to FLRA information requests. It is particularly important that the HR Specialist (Classification) is prepared to verify the alphabetic lists of included and excluded employees. The HR Specialist (Classification) will need to perform an expeditious review of these lists of employees to verify that all are coded correctly and that any errors are discovered and corrected. This will also mean that the HR Specialist (Classification) needs to determine that the inclusions and exclusions are sound and supportable decisions when evaluated against current case law. Once all changes and corrections are communicated from the HR Specialist (Classification), the Processing Associate must make the appropriate changes as necessary.

Revocation of Certification

A petition will be filed in order to revoke a unit certification that is no longer appropriate. When an activity closes, a petition must be filed revoking the unit certification so the BUS code can be removed from the computer system. A revocation of certification can also be filed when the exclusive representative is unwilling or is unable to represent employees. When a function is eliminated, it is important to determine if there are any unit certifications that need to be addressed.

Example:

One activity converted its security guards to police officers, thus eliminating the guard function. Since the BU was made up only of guards, it was necessary to file a petition to revoke the certification for that BU since its function was eliminated.

Whenever evidence of a closure or elimination of function occurs, management must advise the LR staff and forward supporting documentation. The LR staff must promptly file a petition. If the union represents employees from other programs, the LR staff should make it clear to those officials that the petition relates only to the specific BU that is being eliminated.

When the FLRA revokes the certificate for that BU, its BUS code is no longer active. The LR staff will forward that decision and order to the OHRM, USDA Program Manager for Labor Relations. The OHRM, in turn, reports the revocation to OPM. Upon notification that this process has been completed the HR Specialist (Classification) will process BUS code changes as indicated by the LR staff.

Good Faith Doubt as to Union's Continued Majority Status

Occasionally, a certified union has the majority status of its BU employees questioned. This might occur if the union has a relatively small percentage of covered employees as dues paying members and where the union is not actively representing the employees' interest. The FLRA found in one case with these circumstances that a reasonable doubt existed as to the union's continued majority status by using a "totality of the circumstances" test. The combined circumstances such as low levels of membership and history of inactivity are examined on a case-by-case basis. In this case, an election was ordered to determine if a majority of eligible employees voting would favor continuing the union as their exclusive representative.

If the agency can demonstrate "a good faith doubt as to the continued majority status" of the union, then the LR staff should petition the FLRA. If the FLRA determines that there is a good faith doubt and the employees vote for no union in an election the employee's BUS codes must be changed to 7777 since they are eligible for representation, but no longer represented.

Reorganizations / Realignment

When reorganizations/realignments lead to the creating of new activities, the combining of employees from different activities, or a name change for an activity, a petition must be filed with the FLRA to amend the BU certification. The LR Specialist must consult with management to develop a position regarding the impact on the existing BU and how they now see the BU defined. Management needs to provide background history and documentation in order for the LR staff to properly analyze the essential case elements. This is necessary in order to be prepared to respond to union-filed petitions or file petitions on behalf of management.

Successorship Principals

Successorship involves a determination of a status of a bargaining relationship between an agency which acquires employees who were in a previously existing BU, and a union that exclusively represented the employees prior to their transfer. The FLRA defines a successorship as when a whole BU, or a portion of it, is organizationally transferred to a new or existing agency where the transferred employees constitute a majority of the employees at that agency and the unit is still an appropriate unit for collective bargaining. See 50 FLRA No. 56

Example:

Activity A has a department that performs information technology (IT) services for Activity A. The AFGE local represents those 125 IT department employees. As a result of a reorganization, all 125 IT employees are physically and organizationally realigned and created a totally new organization in Activity B. The 125 employees of Activity B are an appropriate unit and the IT employees constitute a majority. Activity B has substantially the same mission as the former IT department and the employees are performing substantially the same duties and functions under similar working conditions.

The LR staff will petition with the FLRA to clarify the unit at Activity A to exclude the employees from Activity B and also result in certification of a new BU in Activity B, the successor employer. Should the FLRA find a successorship, then the BUS code for all 125 BU employees at activity B would change to a new AFGE BUS code.

A successorship case includes administrative realignments such as a name change. This would occur if the employees were realigned on paper but did not see any change in their chain of command, to the mission they support and if the employees did not experience any "meaningful changes" in their duties, functions or job circumstances. Management must promptly inform the LR staff of any activity name changes and a petition should be filed to amend the BU certification. The petition and subsequent proceedings can become substantially more difficult when not filed within a reasonable time. If the petition involves only a name change, it should not result in the assignment of a different BUS code.

Unfortunately, not everything in labor relations is so black and white. There are cases wherein a new activity is formed and employees are realigned to the new activity from more than one losing activity. Different unions might represent portions of the realigned employees and some employees might be unrepresented. In such cases, the FLRA will look at the totality of the circumstances surrounding the reorganization, make a determination as to the appropriateness of a proposed unit, and certify the exclusive representative. Otherwise, if there are questions concerning representation, the FLRA will order an election for the employees to determine the exclusive representative or to determine whether there is no representative.

When a reorganization occurs, management should provide the LR staff the background history and documentation, including a list of those BUS codes that are being affected and contact information for key management resource personnel. This must be done in order for the LR staff to properly analyze the essential case elements in order to respond to any union-filed petitions or to file petitions on behalf of management. Depending on the outcome of any FLRA petitions, the BUS could be changed for some or all of the employees.

Accretion Principals

Accretion refers to the addition, without an election, of a group of employees to an existing BU. The resulting unit must be an "appropriate" unit and the employees must be functionally and operationally integrated such that they do not have a separate, clear, and identifiable community of interest. See 5 FLRA No. 37

Example:

Activity A performs public works services for the base and the AFGE represents the Activity's 300 employees. As a result of an organization change, 50 public works employees at Activity B, represented by the National Association of Government Employees (NAGE), are physically and organizationally moved to Activity A. The employees from Activity B are fully integrated with the employees at Activity A to the point where the employees' origin is indistinguishable. The LR staff will file a petition with the FLRA to clarify the unit at Activity A to include the employees from Activity B so that the same union will represent all of the public works employees. Should the FLRA find an accretion, then the BUS code for the 50 NAGE employees would change to the AFGE BUS code.

Since an accretion potentially affects employee BUS codes, management must promptly forward historical documentation to the LR staff relative to these events, including a list of affected BUS codes. This must be done in order for the LR staff to properly analyze the essential case elements to respond to any union-filed petitions or to file petitions on behalf of management. Depending on the outcome of any FLRA petitions, the BUS code might need to be changed for some or all the affected employees.

Activity Closings

While this may not be germane to USDA, this subject is being covered for information. During the 1990's, the Department of Defense experienced a high level of activity closings across the country. When a closure occurs, the BUs at that activity cease to exist as they were. When an activity ceases operation, management must promptly advise the LR staff since it might necessitate a "revocation of certification" petition. If all of the BU employees are reassigned or realigned, but their exclusive representative continues to exist, then a petition may be needed for something other than a revocation. For instance, if a successorship or an accretion has occurred following a base closure and transfer of function, then a unit clarification petition is needed.

Management must provide the necessary information in order to file a petition with the FLRA. The official notice that an activity has been formally disestablished is especially important. The LR staff must now file a petition with the FLRA for the specific unions (BUS codes) affected. It is critical that management promptly advise the LR staff of such events, since these petitions must be filed in a timely manner.

Changes in Duties and Responsibilities that may Exclude Positions from the BU

A position is designated either in or out of the BU when the unit is initially determined. Inclusions are binding unless there is a substantial change in circumstances regarding the duties and responsibilities of an established position. At times a position could undergo meaningful change, excluding the employee under one or more provisions or the Statute.

The following are some examples of changed circumstances:

A secretary or other employee becomes privy to certain labor relations information, either through participation in management meetings discussing negotiations or other labor relations issues, or has direct knowledge of management's position on grievances. These duties would exclude the position from the unit because the nature and duties of the position are confidential under the Statute.

A management analyst is newly assigned to perform studies on organizational structure and staffing levels. These duties would exclude the position as a personnelist because the nature and duties of the position require the employee to act in a manner adverse to bargaining unit's interest and create a conflict of interest.

An information technology specialist is newly assigned to establish activity standards and policies regarding computer equipment and can shut down computer equipment in the event of a security breach (i.e. hackers). These duties would exclude the position as a management official.

An office automation clerk is now responsible to maintain classified material. This duty would exclude the position as national security work.

When the duties and functions of an established position change, the HR Specialist (Classification) should analyze those changes, review the current case law, and if appropriate, exclude the position. An agreement might be reached with the union about the new exclusion. However, an agreement between management and the union will not hold up should the union later change its mind. In cases such as this, the HR Specialist (Classification) should consult with the LR staff in the event of a union-filed petition for unit clarification. Only the FLRA can determine the unit status of an employee.

RESPONSIBILITIES REGARDING PETITIONS

A FLRA petition is required when changes occur as described in the previous chapter that impacts the size, nature, description and appropriateness or identification (unit description or unit makeup) of a BU. Now, we will look at the actions that are required when these changes occur.

Determining the Necessity of Filing a FLRA Petition

It is important that the HR Specialist (Classification) promptly notify the LR staff of any changes as described in the previous chapter when they occur and provide the name and phone number of the management point of contact (POC) for further details. The LR staff will fully explore the LR history and analyze the impact.

When the LR staff receives information concerning a change, it must analyze the impact in terms of the evidence for and the implications of a management-initiated petition. The LR staff will review this information with management and determine the need for filing a petition. The LR staff will advise management of the best position and strategy for filing a petition. The responsibility for filing the petition that best represents USDA's interests lies with the LR staff.

Filing the Petition with the FLRA

If a decision has been made to file a petition, the LR Division Head, MRPBS, will identify the LR agency representative (AR). The AR will then develop the facts and determine the documentary evidence required to be filed with the petition. The AR will identify those information needs in a request to the management POC. The POC will collect the information identified and provide it to the AR within the allotted time specified. It is imperative that the AR be provided complete information about any changes that affect LR issues.

The AR will assemble the evidence provided by the management POC and attach it to the petition when filed. The evidence that must be provided includes:

- Full name and address of old "activity", including recognized abbreviation;
- Full name and address of new "activity", including recognized abbreviation;
- Old and new BUS codes and any applicable unit identifier codes;

- Management POC, including name, title, address and phone number (This should be someone with in-depth historical information and the authority to provide the required information and speak for management);
- Union POC, including name, title, address and phone number;
- Organizational charts (before and after change);
- Mission statements (before and after change);
- FLRA "Certification of Representative" (last amended copy);
- Relevant documentation concerning issues raised by the petition (e.g., formal notification about disestablishments, establishments and changes; and
- Name and address of any other unions that may have any interest in the petition.

Before filing a petition, the AR may communicate the reasons for the chosen course of action to the union and subsequently to the FLRA. This will better enable the AR to anticipate whether management's position will be contested. Additionally, the FLRA often takes a more favorable approach when the petition transmittal letter indicates that the union has no objection to the petition.

The AR will prepare the petition and review it with management to ensure completeness and accuracy. Finally, the AR will file the petition with the FLRA and serve all union representatives as required. Copies will be sent to the management POC.

Union-Filed Petitions

Unions seeking to protect their exclusive representational status may also file petitions when informed of an impending reorganization. Unions generally seek to continue as exclusive representatives of their original BU, which could result in their filing a petition for successorship or for accretion depending on the circumstances. Unit clarification petitions may be filed at any time by a union seeking to challenge positions that have been "excluded" by management.

It is important that all union-filed petitions that are served upon management are faxed to the LR staff immediately upon receipt. The LR staff needs as much time as possible between the union-served copy and the FLRA case-opening letter for appraising the case elements and formulating a position for a timely statement to the FLRA.

Representing the Agency Through the Representational Process

Once the FLRA case-opening letter is received the LR Division Head will prepare a "Designation of Representative" form or letter to the FLRA. Information copies of FLRA correspondence will be forwarded by the LR staff to the management POC. If the FLRA requires additional information, the AR will communicate the need to the management POC and the management POC will provide the additional information. The management POC will also be responsible to post the FLRA "Notice of Petition" when received and report the date and place of postings by e-mail or fax to the AR for response to the FLRA.

Joint Stipulations

Once the initial information requests are provided to the FLRA, the FLRA will ascertain the positions of the parties. If there is a consensus over the issues, the FLRA will further discuss the proposed resolution with the parties and draft "joint stipulations." The stipulations are sent to each of the parties to resolve any objections and to approve them. When the stipulations are received on behalf of management, the AR will forward a copy to the management POC to determine whether there are any specific objections. Once the objections are resolved with the FLRA, the AR will sign and return the stipulations. This will normally end the representational process (unless an election is involved) until a decision order is issued.

"13-B" Meeting

Prior to a hearing, the FLRA will schedule all parties (AR and the unions) for a meeting or teleconference as provided in 5 CFR 2422.13(b). This is commonly referred to as a "13-B meeting." The purpose of this meeting is to confirm the positions of the parties, state the issues to be resolved, and attempt to narrow and/or resolve those issues. If a resolution by informal agreement appears unlikely, the FLRA will discuss hearing dates (unless dates are already set) and determine that the issues are scheduled for resolution through a formal hearing.

Hearing Preparations

The hearing schedule will include the estimated number of hearing dates required (normally from one to three consecutive dates) and one afternoon immediately preceding the hearing for a pre-hearing conference. Witnesses will not attend the pre-hearing conference.

The AR will determine the need for documentary and testimonial evidence and keep management informed of the case's progress. The management POC will help facilitate the provision of any additional relevant background information, agency exhibits and schedules. The AR will establish a schedule of witnesses for witness interview, preparation and for their testimony at the hearing. The FLRA will require a witness list to be provided by the AR in advance of the hearing, as well as copies of any documentary evidence (exhibits) to be provided to all parties, either in advance or at the pre-hearing conference.

Examples of evidence that must be provided to the AR, in addition to that filed with the petition, include:

- Instructions/policies that affect employees' conditions of employment;*
- Meeting agenda that might establish place, frequency, membership, topics of discussion;*
- Email memoranda covering a wide variety of information about the integration of the workforce;*
- Email memoranda issued to a specific audience and thus demonstrative of that group's makeup;*
- PDs when required by FLRA or when select PDs are needed as management evidence.*

The Hearing

The AR represents USDA at a FLRA hearing and coordinates the presentation of the case and all responses to questions posed to management. The management POC may provide assistance to the AR at the hearing. After the hearing the AR usually prepares and files a post-hearing brief to summarize and further support the case presented at the hearing. Copies of the brief should be provided to the management POC as well as being served to the other parties to the case.

Appeals

If the decision is not in the best interest of the USDA, the AR may file an appeal to the FLRA in representational proceedings called an Application for Review (AFR) of a Regional Director (RD) Decision. Such an appeal must meet the criteria under 5 CFR 2422.31. The FLRA will grant an AFR only when the application demonstrates that review is warranted on one or more of the following grounds:

- (1) The RD's decision raises an issue for which there is an absence of precedent;
- (2) Established law or policy warrants reconsideration; or,
- (3) There is a genuine issue over whether the RD has:
 - (i) Failed to apply established law;
 - (ii) Committed a prejudicial procedural error;
 - (iii) Committed a clear and prejudicial error concerning a substantial factual matter.

Appeals must clearly establish a case under the criteria of the regulations. The FLRA will not allow the introduction of new evidence that was, or should have been, available at the time of the hearing. The official record is closed at the conclusion of the hearing.

When the RD's decision order is received and an appeal is being contemplated, the AR will discuss with the management POC and develop a strategy for the appeal. The AR will then consult with the Labor Management Program Manager, OHRM. After consultation regarding any potential agency-wide impact of this case, the AR will then make a decision on whether to appeal. The LR Division is responsible for any appeals and will keep the management POC informed and will respond to the FLRA as required.

Decision and Order on Petition and Unit Certification

The LR staff coordinates the implementation of FLRA "Decision Orders on Petition and Amendment of Unit Certifications" when received. Copies will be forwarded to the management POC. The management POC will ensure that any actions falling under management's jurisdiction that are required by the FLRA are completed.

Decision Orders and OPM Issued BUS Codes

The FLRA mails a "Decision and Order on Petition and Certification (or Amendment) of Representative" to the AR establishing, clarifying, amending, or revoking a BU certification. Upon receipt of a decision and order of the FLRA Regional Director, the AR completes an OPM 913B, "Change Form - Recognitions and Agreements" and faxes a copy of the "Decision" and the completed form to the LR Program Manager, OHRM. The Program Manager, OHRM, forwards the OPM 913B to OPM for input into the Labor Agreement Information Retrieval System (LAIRS).

OPM informs the LR Program Manager, OHRM, of a new BUS code number assignment or the amended description assigned to an existing BUS code. The LR Program Manager, OHRM, enters the information into the BU inventory system that is used to generate reports such as the number of BU employees in USDA. The LR Program Manager, OHRM, also forwards the information to the National Finance Center (NFC) for inclusion in the NFC Payroll and Personnel database, and to the Employment, Program Development and Classification Policy Branch, Riverdale, MD and the Classification and Processing Chief, Minneapolis, MN. The HR Specialist (Classification) will input the information into the Position Management System (PMSO). Any BUS codes that are not officially "built" into the system will be rejected, so this step is critical.

The LR Program Manager, OHRM, then informs the LR staff, who in turn, must inform the HR Specialist (Classification) and Processing Associates to begin the process of BUS code changes. The LR staff will reference the FLRA case decision order, the OPM BUS code assignment and will advise the management POC of the required changes to employee BUS codes. It is recommended that the HR Specialist (Classification) and Processing Associate be provided a copy of that communication for the impending process of changing position builds. Additionally, the LR staff must inform the union of the requirement for them to contact the Director of Personnel, OHRM and request that a Memorandum of Understanding be agreed upon before any payroll deductions for union dues can be processed. A sample of the required Memorandum of Understanding is provided as Attachment 4.

Management Generates RPAs Changing BUS Codes

The appropriate administrative assistant(s)/secretary will generate an RPA via the Personnel Action Tracking System for each employee included in the new unit changing the information in Box 27 to indicate the new BUS code **or** if multiple changes are necessary, other administrative means may be utilized as long as all the required information is provided. In this case, the nature of action code "800 - Change in Data Element" should be used.

Example:

If an unrepresented unit of eligible employees (7777) voted in an election to be represented, then the BUS code assigned to this unit by OPM would then be assigned to each member of the unit by processing individual RPAs or other appropriate administrative means.

The Program Manager will also need to provide the HR Specialist (Classification) and Processing Associates with a spreadsheet identifying the core PD and PD sequence numbers for any vacant or obligated positions that are affected by the BUS code change.

VERIFICATION OF CHANGES TO EMPLOYEE BUS CODES

It is recommended that the Classification staff obtain a report that accesses data "refreshed" from the EPIC System database, i.e., Culprit or Focus Reports, as applicable. This report should be used once the processing of BUS code changes is concluded. This will enable the HR Specialist (Classification) to review the "included" and "excluded" employee lists and use them to verify the correct coding of the new or clarified unit employees.

LESSONS LEARNED FROM INACCURATE BUS CODES & UNTIMELY PETITIONS

When BUS codes are not coded correctly or petitions are not filed timely, it costs management and the HRD staff needlessly expended resources. It is imperative that the HR Specialists (Classification) are aware of the importance of reviewing the accuracy of BUS codes and contacting the LR staff as indicated in this Guide. The following are actual lessons learned in this regard:

A GS-11 Health Systems Specialist was newly assigned to an excluded position (confidential employee) following a promotion. It was verbally communicated to the employee that he was ineligible for the BU. However, the processing associate should have verified that the BUS code previously assigned (07xxxx) was changed to 8888 at the time of this employee's promotion to GS-11. When that did not happen, this employee continued dues withholding and union membership. After nine months, when a union memorandum appointing this employee as a union steward came to management's attention, the union filed a unit clarification petition and five ULPs because the NPA stated he was a BU employee. Subsequently, a hearing was held and the FLRA ruled that the position was correctly excluded from the unit.

It was the failure to change the BUS code that opened the door to these events. These were all costly and time-consuming cases lasting approximately sixteen months. The HR Specialist (Classification)/Processing Associates need to ensure that BUS code changes are made promptly when employees are reassigned or promoted to positions with a different BU status. Additionally, there needs to be a process in place to verify the cessation of dues withholdings for any former BU members who have become ineligible.

In February of 1999, an activity was disestablished. However, a revocation petition was not filed until October 2001. After such a lapse in time, necessary documentation became very difficult to obtain and both management and union officials became difficult to locate resulting in little or no institutional memory of the events. There were no original or amended BU certifications or other documentation important in filing for a revocation of certification. The facts presented to the FLRA were incomplete and this opened the door for a union challenge. A former union official contested the revocation of certification even though the activity was closed and the local had no members. Even though management expected to prevail at a hearing, that process would have cost a lot of organizational resources. After a lot of time-consuming discussion among the parties, the LR staff managed to get a favorable decision without a hearing.

The result of this delay in filing a revocation petition caused that process to be more complicated and costly than necessary. Many of the problems in this example could have been avoided by filing the revocation petition in 1999. Program Managers should promptly notify the LR staff of any disestablished activities or programs, and the LR staff should always ensure that a representational petition is filed in a timely manner.

An activity underwent a transfer of function and realignment in October of 1995. However, no representational petition was filed at that time, even though the union did not have any concerns or problems with the realignment. In 1998, four affected employees developed concerns that a Reduction in Force (RIF) might impact their jobs. They complained to the union, who filed a representational petition in August of 1998, seeking a determination of successorship and continued representation. By the time this case went to a hearing, some of the management team was new and some of the most knowledgeable witnesses were lost.

These circumstances could have been avoided had a representational petition been filed in 1995 when the realignment took place. Ultimately, the cost to management involved two hearings and two appeals that spanned a two and one-half year period. This example again demonstrates the reason why the LR staff should be promptly notified and the importance of filing petitions in a timely manner.

In January of 1997, Activity A was disestablished. The BU employees were realigned under Activity B. In May of 2002, a FLRA representational petition was filed in order to revoke the certification of the union local, since these employees were no longer an appropriate unit. The Activity A employees were now aligned and integrated with a geographically distant Activity B. These employees were no longer aligned with their former base where their former union local continued to represent employees of other activities.

The late filing in this case caused a lack of management documentation needed to support the required representational petition. As a result, the union seized the open door and contested management's petition, claiming successorship and claiming to continue as the exclusive representative. The union made this challenge even though management had recently prevailed in a case involving an identical successorship claim (see previous example). The previous case occupied that union in two FLRA hearings and two appeals over a two and one-half year period. Fortunately, the prospect of such a prolonged process and the contrary case law helped to convince the union not to pursue those employees.

It should be noted that this union may have withdrawn its objection due in part to a lack of union interest from the employees. However, it takes only one employee to motivate the union to contest management's petition.

In October 1996, fifty employees from Activity A were realigned with a command of about 250 employees in Activity B. Both management and the two unions agreed at the time that those Activity A employees had effectively accreted into the existing BU and would be serviced by the exclusive representative for the existing BU in Activity B. However, when management filed a representational petition for unit clarification in January 2002, there was a very different environment. A disgruntled individual from the Activity A BU filed a petition in order to decertify the present union. The union that previously represented Activity A employees joined his efforts. This case went to a hearing and both the documentary and testimonial evidence was difficult to assemble due to the lapse in time. This was further complicated because the FLRA looks at the totality of circumstances existing at the time of the reorganization as well as the present.

Many of the problems in this example could have been avoided by filing the representational petition in 1996. Again, the LR staff should be notified promptly of any organizational changes such as reorganizations. If the LR staff determines a petition is needed the LR staff should ensure the petition is filed in a timely manner.

SUMMARY

The LR staff hopes that this Guide will serve as an easy reference to use when making BUS code changes. The Guide was intended to not only provide the correct steps to take in this regard but also to emphasize the importance of making timely and accurate BUS code determinations. The Lessons Learned Section was intended to give real-life examples of the costly and time-consuming problems that could have been avoided by paying more attention to this area.

Management and the HRD staff have a responsibility to ensure that accurate records are maintained and costly third party proceedings avoided where possible. By properly following the steps in this Guide, the HRD staff will be able to ensure that they carry out this responsibility in the best interest of USDA.

Labor Management Relations Update (LMRU) Advisory Union Dues Allotments and Agency Liability (June 20, 2002)

The Situation: A bargaining unit employee who is having Union dues automatically deducted from their pay is promoted to a supervisory position or is reassigned to an unorganized work unit. Union dues continue to be withheld from their salary for two years, when the employee realizes that they are not covered by a collective bargaining agreement and can't receive Union representation. Upset with this new reality, the employee promptly requests the agency stop the allotment and submits a claim for reimbursement of dues that were withheld during the two-year period.

The Question: Is the employee entitled to reimbursement from the agency?

The Answer: Yes

The Second Question: Is the Union obligated to reimburse the Agency?

The Second Answer: Maybe

The Explanation: The Federal Service Labor Management Relation Statute (FSLMRS) at Section 7115(a) obligates agencies to honor written requests received from bargaining unit employees authorizing payroll deductions for regular and periodic union dues. The FSLMRS at Section 7115(b)(1), states that such allotments shall terminate when the written agreement between the agency and exclusive representative involved ceases to be applicable to the employee.

Current case law is established by the Office of Personnel Management's Office of Merit Systems Oversight and Effectiveness which exercises the Comptroller General authority to settle Federal employee compensation claims. Specifically, in Decisions S9801395 (7/22/99) and S9801017 (2/25/98), where employees were granted claims for dues erroneously taken OPM concluded:

Therefore, when bargaining unit members who have elected to pay membership dues to their exclusive representative through payroll deductions are promoted or transferred out of the bargaining unit, 5 U.S.C. Section 7115 no longer authorizes the deductions of union dues from their paychecks. Accordingly, such deductions must terminate as a matter of law. Deductions made contrary to this statute [FSLMRS] are erroneous and must be refunded to the employees.

The OPM decisions are consistent with those issued by the FLRA. See *AFGE Local 1963, and Department of Veterans Affairs Medical Center, Danville, Illinois*, 36 FLRA 25 (1990), where the Authority set aside an arbitrator's award requiring the VA to continue dues withholding while an employee was in a temporary supervisory position.

ATTACHMENT 1

On the matter of whether the Union is obligated to reimburse the agency for dues it erroneously received via the agency from employees who were not in the bargaining unit, union liability is determined on a case-by-case basis. Again, turning to Comptroller General case law at Decision B-212695 (63 Comp. Gen. 351), it states:

We have held that where the union received erroneously withheld dues in good faith and without fraud or misrepresentation, the erroneous payment to the union may qualify for waiver under 5 U.S.C. Section 5584.

Thus, the agency in deciding whether it should seek reimbursement from the Union, should determine whether there is any evidence that the Union knew or should have known it was receiving dues to which it was not otherwise entitled. Absent such evidence, it may consider waiving the liability. Otherwise, collection efforts should be initiated.

In providing this information, the USDA recognizes that there are two Memorandums of Understanding between the National Federation of Federal Employees (NFFE) and the American Federation of Federal Employees (AFGE) containing dues processing procedures dating back to 1979. Neither contains language that specifically addresses the circumstances described in this Advisory regarding the discontinuance of due allotments and reimbursement liability. However, the USDA-NFFE Agreement at Item 11, infers that employees should not be reimbursed for erroneously collected dues and that NFFE was granted a blanket waiver from liability. Even if the MOU did apply to this situation, it is well established in Federal labor law that an agency's obligation to comply with law takes precedence over bi-lateral agreements between labor organizations and agencies. In this situation, agencies are bound to apply 5 U.S.C. 7115(b) (1). In addition, since USDA does not have a bargaining relationship with either Union at the Department level, there would be no bargaining obligation over procedures and appropriate arrangements for any changes necessary to come under compliance with law.

Lessons to be Learned and Recommendations Offered:

1. *Prevention is the best remedy.* Agencies can avoid finding themselves in the situation of having to reimburse employees for illegal dues deductions by ensuring bargaining unit status codes (BUS) are changed in conjunction with personnel actions when employees leave the bargaining unit. For those BUS codes changed to 8888, NFC will automatically discontinue dues allotments – otherwise the allotments will continue. It is recommended that Labor Relations specialists orient the Classification and HR staff who process personnel actions on the importance of designating and checking BUS codes on AD-332s in conjunction with processing personnel actions.

ATTACHMENT 1

2. *When errors are discovered, move quickly to discontinue automatic dues allotments.* HR staffs should discontinue illegal allotments to mitigate agency liability. Employees who are found to be ineligible for dues allotments, whether or not they want the allotments to continue, should have automatic dues allotments cancelled. HR staffs should inform the affected employees in conjunction with making the change, and offer the employee the option to set up a financial allotment via payroll deductions to the Union in the same manner an employee may make allotments to other financial institutions. This would be a matter between the employee and Union, outside the scope of the FSLMRS and Departmental MOU with AFGE and NFFE.
3. *Periodically check BUS codes for employees with dues allotments.* Through your Focus report programmer (someone on the HR staff with Focus report generating skills) submit UNIONDUE report from the OP1 Library. The report will print the Name, BUS code, Union Code, Union Local, Title, Series, Grade, and Amount of Dues of employees. Given the LR specialist's knowledge of unit certifications, reviewing the report should reveal employees with improper dues withholdings. A sample copy of the UNIONDUE report (with the names deleted/modified for privacy reasons) is provided below. In viewing the report, please recognize that it shows all employees with dues allotments, including those with dues going to professional associations.

PAGE 1

EMPLOYEES PAYING UNION DUES
AS OF 06/20/02

AGENCY	NAME	BUS	LOCAL	AMOUNT	UNION CODE/ GRADE	SERIES/ TITLE
-----	----	---	-----	-----	-----	-----
Food and Nutrition Service	XXXXXX, DAVID	1162	52/2735	7.00	0301/11	PROG SPECLST
	XXXXXX, PHYLLIS	1162		18.95	0303/07	PROG TECHNCN OA
	XXXXXX, ARLENE	1162		18.95	0525/06	ACCTG TECHNCN
	XXXXXX, PETER	1162		7.00	0301/11	PROG SPECLST
	XXXXXX, ROD	1166	05/0503	2.00	0501/09	FNANCL MGMT SPEC
	XXXXXX, RUTH	1166	05/5199	2.00	0301/11	PROG SPECLST

Questions related to this Advisory, should be made to Pete Rockx, Program Manager for Labor Relations at USDA-OHRM, peter.rockx@usda.gov, 202-720-0065.

ATTACHMENT 1

UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY

**U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION
SERVICE
CALIFORNIA WILDLIFE SERVICES
SACRAMENTO, CALIFORNIA**

-Activity

CASE NO. SF-RP-02-0035

**-and-
WESTERN REGION WILDLIFE SPECIALISTS
ASSOCIATION**

-Petitioner/Labor Organization

CERTIFICATION OF REPRESENTATIVE

An election was conducted in the above matter under the supervision of the undersigned Regional Director for the Federal Labor Relations Authority, in accordance with the provisions of Chapter 71 of Title 5 of the U.S.C., and with the Regulations of the Federal Labor Relations Authority. A majority of the valid ballots has been cast for a representative for the purpose of exclusive recognition.

Pursuant to authority vested in the undersigned,

IT IS CERTIFIED that **Western Region Wildlife Specialists Association**, has been designated and selected by a majority of the employees of the above-named Activity or Agency, in the unit described below, as their representative for purposes of exclusive recognition, and that pursuant to Chapter 71 of Title 5 of the U.S.C., the named labor organization is the exclusive representative of all employees in the unit.

UNIT:

INCLUDED:

All non-professional, permanent AD employees and term employees with an expectation of continued employment of the California Wildlife Services, Animal and Plant Health Inspection Services, U.S. Department of Agriculture in the State of California.

ATTACHMENT 2

EXCLUDED:

All professional AD employees, temporary employees, employees serving pursuant to term appointments without a continued expectation of employment, GS employees, management officials, supervisors and employees described in 5 U.S.C. § 7112(b)(2), (3), (4), (6) and (7).

FEDERAL LABOR RELATIONS AUTHORITY

Dated: September 17, 2002

**Gerald M. Cole, Regional Director
San Francisco Region**

Attachment: Certificate of Service

FLRA Form 28
(Rev.1/96)

ATTACHMENT 2

April 2003

INTERNAL OPERATING PROCEDURE FOR INITIAL ESTABLISHMENT & ADMINISTRATION OF UNION BARGAINING UNIT STATUS (BUS) CODES

1. Purpose: To establish procedures for internal management of new BUS codes at the Human Resources Division, MRPBS, APHIS.

2. Discussion: The Federal Labor Relations Authority (FLRA) serves as the appropriate authority to certify a union as the exclusive representative for a bargaining unit. When the FLRA certifies a union as the exclusive representative, the FLRA will mail a copy of the "Decision and Order on Petition" and "Certification of Representation" to the LR Specialist who acted as the Agency Representative. This serves as the starting point for the Human Resources Division involvement.

3. Action:

a. The cognizant LR Specialist will forward a copy of the "Decision and Order on Petition" and "Certification of Representation" to the designated Management POC and the LR Division Head. A copy of the above information, along with OPM Form 913B, will be forwarded to the Labor Relations Program Manager, OHRM, and a BUS Code requested.

Upon receipt of the BUS Code, the cognizant LR Specialist shall:

(1) Update the relevant LR computer database(s).

(2) Advise the union of the requirement to request a Memorandum of Understanding (MOU) with the Director of Personnel, OHRM in order for payroll deductions for union dues to be processed. Attachment 4 is provided as a sample of the required MOU.

(2) Notify Management's POC of the new BUS Code number and responsibilities via e-mail message. The Chief, Classification/Processing Team, Minneapolis and Chief, Personnel Services Center, Riverdale/Washington should also be copied on the e-mail message. The e-mail message should contain the following information:

(Management POC):

"Through the "Decision and Order on Petition" and "Certification of Representation" information I recently sent, you are aware that (name of union) became the exclusive representative for a bargaining unit at {insert name of activity and location} on (date). As such, a new Bargaining Unit Status (BUS) Code was developed. The BUS Code is (insert BUS Code).

ATTACHMENT 3

Request that your office initiate action to update the employee's records with the new BUS Code information. Updates are initiated through the EPIC System via a Request for Personnel Action (RPA). There should be coordination with the HR Specialist (Classification) and the appropriate Lead Processing Associate or Supervisor regarding submission of these actions. If numerous RPAs are required, please contact the Lead Processing Associate for a possible alternate administrative process and routing instruction.”

(3) Follow-up with the Lead Processing Associate for status, if necessary.

(4) Notify the cognizant LR Specialist when all action regarding establishment of the BUS Code is complete.

b. The Processing Associate shall:

(1) Upon receipt of information, process the change in BUS Code actions.

(2) Notify the Chief, LR Division, and the cognizant LR Specialist when action is completed.

SAMPLE

SAMPLE

MEMORANDUM OF UNDERSTANDING
BETWEEN
(NAME OF AGENCY)
AND
(NAME OF UNION)

The parties to this Memorandum, the **(name of union)**, herein referred to as **(union acronym)**, and **(name of agency)**, herein referred to as **(agency/program acronym)**, enter into this agreement for the purpose of establishing a mutually beneficial dues withholding agreement.

1. This Memorandum of Understanding is subject to and governed by 5 USC 7115, by regulations issued by the Office of Personnel Management (5 CFR 550.301, 550.311, 550.312, 550.113, 550.322 and 550.331), and will be modified as necessary by any future amendments to said rules, regulations and law.
2. **(Agency/program acronym)** will permit any employee who is included with the unit for which **(union acronym)** has exclusive representation rights to make a voluntary allotment for the payment of dues to **(union acronym)**. Such deductions shall begin after certification of this agreement by the designated management official and upon request by the appropriate union official and shall be at no cost to **(union acronym)**.
Prior to the processing of any voluntary allotments, **(union acronym)** must furnish USDA-OHRM via the servicing Labor Relations Division information necessary for the USDA-National Finance Center to electronically transfer funds to financial institution designated by **(union acronym)** to include; the account type (checking or savings), taxpayer ID number, account number and routing number.

This Memorandum of Understanding shall be made part of every future framework agreement and shall be the only authorized method for obtaining dues withholding.

3. The employee shall obtain an SF-1187, "Request for Payroll Deductions for Labor Organization Dues" and shall file the completed SF-1187 with the designated **(union acronym)** officer. No number shall appear in block 2 of the form except the employee's Social Security Number. The employee shall be instructed by **(union acronym)** to complete Section B of the form.

ATTACHMENT 4

4. The **(union acronym)** authorized official will complete Section A of SF-1187 certifying that the employee is a member in good standing of **(union acronym)**;

insert the amount to be withheld, and the appropriate local number; and submit the completed SF-1187(s) and a cover memo to the LR Division of the Servicing Personnel Office (SPO). The SPO will certify the employee's eligibility for dues withholding, insert the Bargaining Unit Status (BUS) code and promptly process the form. When the SPO determines that an SF-1187 cannot be processed, the SPO shall promptly return the form to **(union acronym)**, annotated with the reason for its return. Dues deductions, to be taken in the order of precedence under law, will not be made for employees who do not receive compensation sufficient to cover the total amount of the allotment.

5. Deductions will be made each pay period and remittances made by electronic funds transfer (EFT) on the scheduled payday to the payee designated by **(union acronym)**. A grace period of 7 days will be permitted in unusual circumstances. The NFC shall also promptly forward to **(union acronym)**, a hard copy listing via regular mail of dues withheld. The listing shall show the name of each member employee from whose pay dues were withheld, the employee's Social Security number, the amount withheld, the codes of the employing agency and the number of the Local to which each employee belongs. The listing will be alphabetical order by the employee's last name. Each Local listing shall be summarized to show the total number of members for whom dues were withheld, the total number of dues withheld in each pay grade, the total amount withheld, and amount due to the Local. The list will also include the name of each employee member for that Local who previously made an allotment for whom no deduction was made that pay period, whether due to leave without pay, insufficient pay, or dues cancellation. Such employees shall be designated with the appropriate explanatory term.
6. The amount of dues certified on the SF-1187 by the authorized **(union acronym)** official (see Section 4) shall be the amount of regular dues, exclusive of initiation fees, assessment, back dues, fines, and similar charges and fees. One standard dues amount for all employees will be specified. If there should be a change in the dues structure of amount, the authorized **(union acronym)** official should notify the LR Division of the servicing SPO. If the change is the same for all members of the Local, a blanket authorization may be used which involves a varying dues structure, and then a revised rate schedule will be provided to the SPO. The LR Division of the servicing SPO shall add the BUS code and promptly forward the certification to the NFC. The change shall be effected at the beginning of the first full pay period after the certification is received by the NFC which shall be no later than 30 days after the **(union acronym)** provides written notification to the SPO of the change in dues. Only one such change to the dues structure may be made in any 12-month period.

ATTACHMENT 4

7. An employee may voluntarily revoke an allotment for the payment of dues by completing a SF-1188, "Cancellation of Payroll Deductions for Labor Organization

Dues” or by memorandum in duplicate, and submitting it to the appropriate SPO. If the employee uses a written request, it must contain all the information required by the SF-1188. The SPO shall process the revocation effective as of the first full pay period the revocation was received by the SPO. The SPO shall verify the information and forward an official copy of each revocation received to the appropriate representative, and will suffice as appropriate notification for the revocation.

8. An allotment will be terminated:
 - a. The beginning of the first full pay period following termination of recognition of the union;
 - b. At the end of the pay period during which an employee is separated from employment;
 - c. The beginning of the first full pay period following receipt of notice from the union that an employee has ceased to be a member in good standing; or.
 - d. The beginning of the first full pay period following receipt of revocation from the employee as provided in Section 7.
9. The parties to this agreement recognize that problems may occur in the administration of this agreement and the dues withholding program. The parties agree to exchange names, addresses and telephone numbers of responsible officials to facilitate resolution of problems. These individuals shall cooperate fully in an effort to resolve any issue relating to dues withholding under the terms of this Memorandum of Understanding. This does not constitute a waiver of any legal, regulatory, or contractual right. Grievances or other appeals concerning this Memorandum of Understanding will be filed with or against the parties at the level of recognition.
10. This Memorandum of Understanding shall remain in effect at the discretion of the Director of Office of Human Resources Management provided (**union acronym**) remains an appropriately recognized representative.

ATTACHMENT 4

11. The initial dues deduction capability for (**union acronym**) will be in place no later than 6 weeks from the date this Memorandum of Understanding is signed.

(Typed Name & Title)
Director of Personnel
Office of Human Resource Management

(Typed Name & Title)
President
Name of Local

Signature **Date**

Signature **Date**